



WEST HANTS REGIONAL MUNICIPALITY REPORT

Information <input type="checkbox"/>	Recommendation X	Decision Request <input type="checkbox"/>	Councillor Activity <input type="checkbox"/>
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To: Members of Planning and Heritage Advisory Committee (PAC/HAC)

Submitted by: _____
 Alex Dunphy, Planner

Date: October 13th, 2022

Subject: 697 Greenhill Road, Greenhill PID 45026010 - Rezoning

LEGISLATIVE AUTHORITY

Section 210 of the Municipal Government Act.

RECOMMENDATION

... that PAC recommends that Council give First Reading and hold a Public Hearing to consider amending Schedule A of the West Hants Land Use By-law by rezoning 697 Greenhill Road, Greenhill (PID 45026010) from the Agricultural Priority Two (AR-2) zone to the Rural Residential (R-4) zone, provided a hydrogeological study can be provided to determine that the development will have no negative affect on the existing water table.

BACKGROUND

Property X	Public Opinion <input type="checkbox"/>	Environment <input type="checkbox"/>	Social <input type="checkbox"/>	Economic <input type="checkbox"/>	Councillor Activity <input type="checkbox"/>
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Application

The completed application was submitted by Doug Faulkner on August 15th, 2022 to change the zoning of a 52 acre property located at 697 Greenhill Road, Greenhill (PID 45026010) from the Agricultural Priority Two (AR-2) zone to the Rural Residential (R-4) zone to permit the construction of a private road and subdivided lots for residential purposes.

Surrounding Context

The subject lot is a 52 acre, mostly undeveloped lot with frontage on Greenhill Road and located within the community of Greenhill. Adjacent properties on the northern side of Greenhill Road are primarily residential with open fields, while uses on the southern side of Greenhill Road tend to be either residential or undeveloped.

DISCUSSION

The subject lot is currently designated Agriculture on the Generalized Future Land Use Map (GFLUM) of the West Hants Municipal Planning Strategy (MPS) (Figure 1). The subject lot is currently zoned Agricultural Priority Two (AR-2) on Schedule A of the West Hants Land Use By-law (LUB) (Figure 2).

The applicant had requested to amend the zoning of the subject lot to Rural Residential (R-4) in order to subdivide and construct a private road for personal use. Lots which are zoned Agricultural Priority Two (AR-2) are able to be considered for rezoning to the Rural Residential (R-4) zone based on a report prepared by a professional agrologist, pursuant to Policy 8.9.3.

Municipal Planning Strategy Document Review

Policy 8.9.3 is the primary enabling policy to be considered for this application. This policy permits Council to consider a Land Use By-law amendment to change the zoning of a property from Agricultural Priority Two (AR-2) to Rural Residential (R-4) based on a report prepared by a professional agrologist. In order to use this policy, the agrologist's report must show that the site has little, or no agricultural capability and development of the site will not adversely affect existing agricultural operations or the agricultural character of the area.

Policy 8.6.1 provides the criteria which must be met by an agrologist report in order to permit the consideration of rezoning a lot for non-farm development. The full list of criteria is included with this report in Attachment A. In summary, the proposal meets the criteria since:

- the subject lot exhibits constraints with regard to land fertility, slope, and drainage;
- the author of the report is a professional agrologist who performed a site visit;
- the report includes a site plan showing the study area; and
- the report identifies site features and reasons that the subject lot would not be productive agricultural land.

Policy 16.3.1 provides the general criteria that must be considered for all LUB amendments. The full list of criteria is included with this report in Attachment A. In summary, the proposal meets the criteria, provided a hydrogeological report can be carried out prior to rezoning since:

- the proposal is not considered premature or inappropriate for the area;
- no municipal costs related to the proposal are anticipated; and
- the Fire Chief, Development Officer, Manager of Building and Fire Inspection Services, District Manager of the Nova Scotia Department of Public Works, and Inspector Specialist of the Nova Scotia Department of Environment and Climate Change have no concerns which have not been addressed in this report.

Comments from the Public

Concerns have been received from two members of the public regarding the potential straining of available potable water through increased well extraction in the area. The applicant has reported no shortage of potable water to the existing well on the subject lot. Clause (b) of Policy 16.3.1 reads “*whether the development is serviced, or capable of being serviced, by a potable water supply and either central sewer or an approved on-site sewage disposal system*”. This clause must be addressed prior to development. Due to this, I am recommending the suggested action from the Nova Scotia Department of Environment and Climate Change to request a hydrogeological report to confirm that the proposed development will not negatively affect the water table of the area.

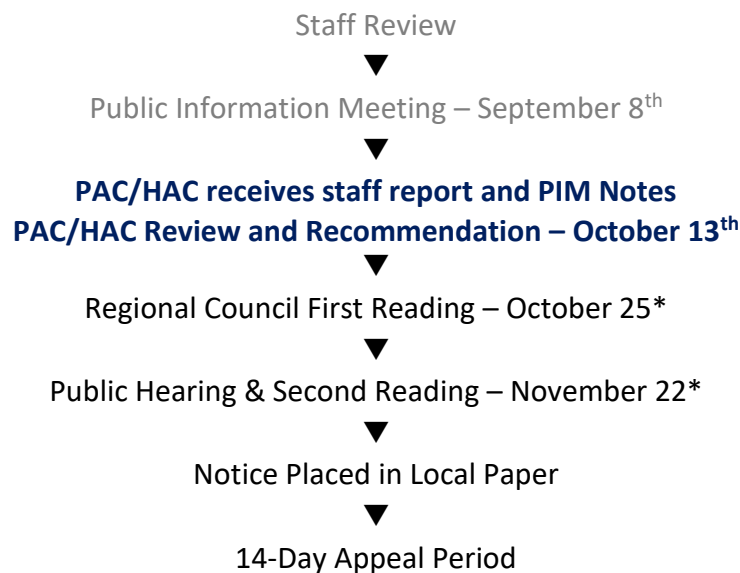
Comments from the Nova Scotia Department of Public Works

An Engineering Aide from the Nova Scotia Department of Public Works confirmed that a maximum of three (3) residential lots can be accommodated by the existing access to the subject lot and that developing a private road would not be permitted.

NEXT STEPS

Discussion from PAC will be incorporated into the report and presentation to Council.

Process



*anticipated dates; final dates are set by Council

FINANCIAL IMPLICATIONS

There are no financial implications to the Municipality with regard to the filing of this report.

ALTERNATIVES

The Planning and Heritage Advisory Committee (PAC/HAC) may:

- provide alternative direction, such as requesting further information on a specific topic.

ATTACHMENTS

Figure 1	GFLUM Extract
Figure 2	Current Zoning Map Extract
Figure 3	Proposed Zoning Map Extract
Attachment A	Policy Summary for Amendment to a Land Use By-law
Attachment B	Public Information Meeting Notes
Attachment C	Agrologist Report

Report Prepared by: _____

Alex Dunphy, Planner

Report Approved by: _____

Madelyn LeMay, Director of Planning and Development

Figure 1 – GFLUM Extract

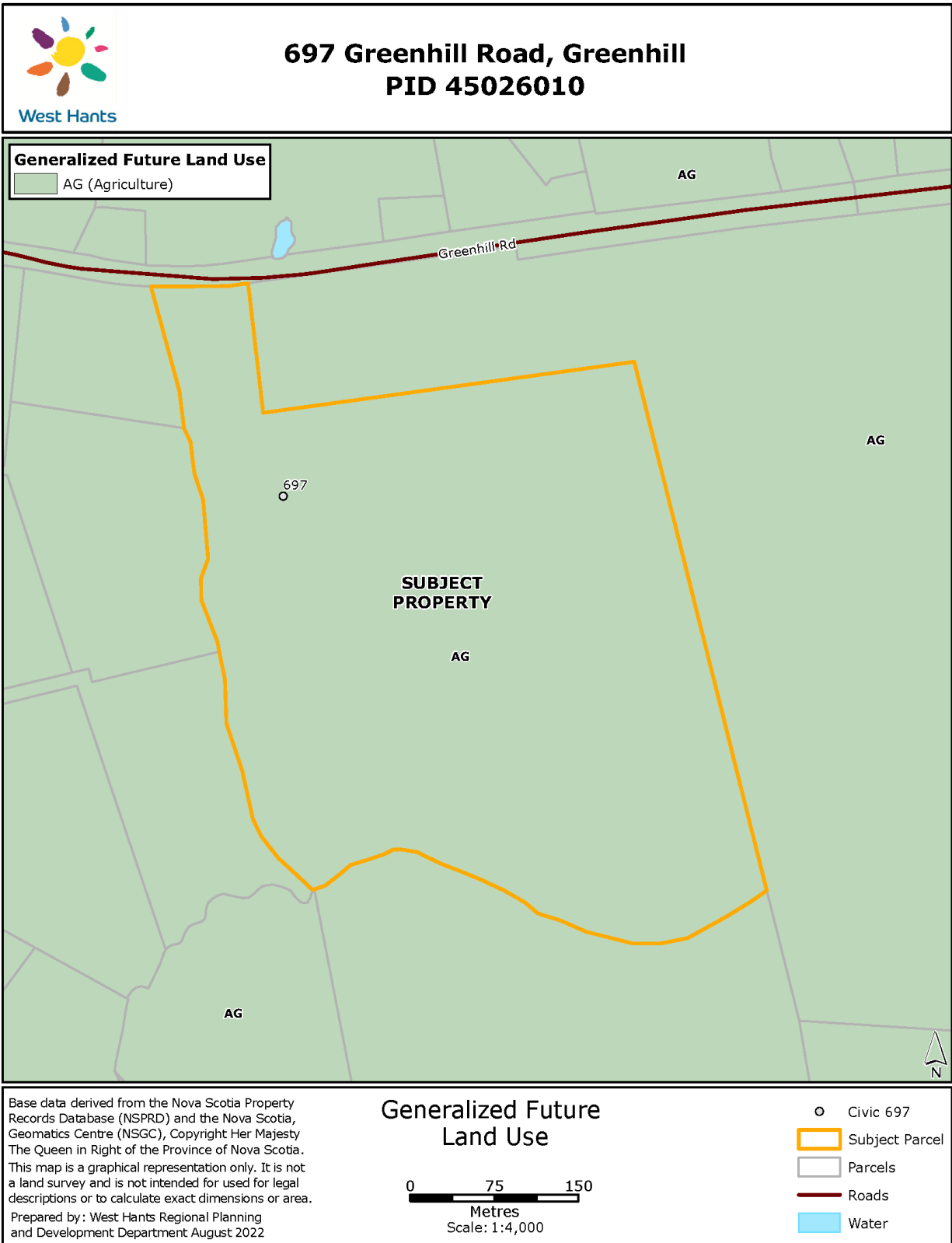


Figure 2 – Current Zoning Map Extract

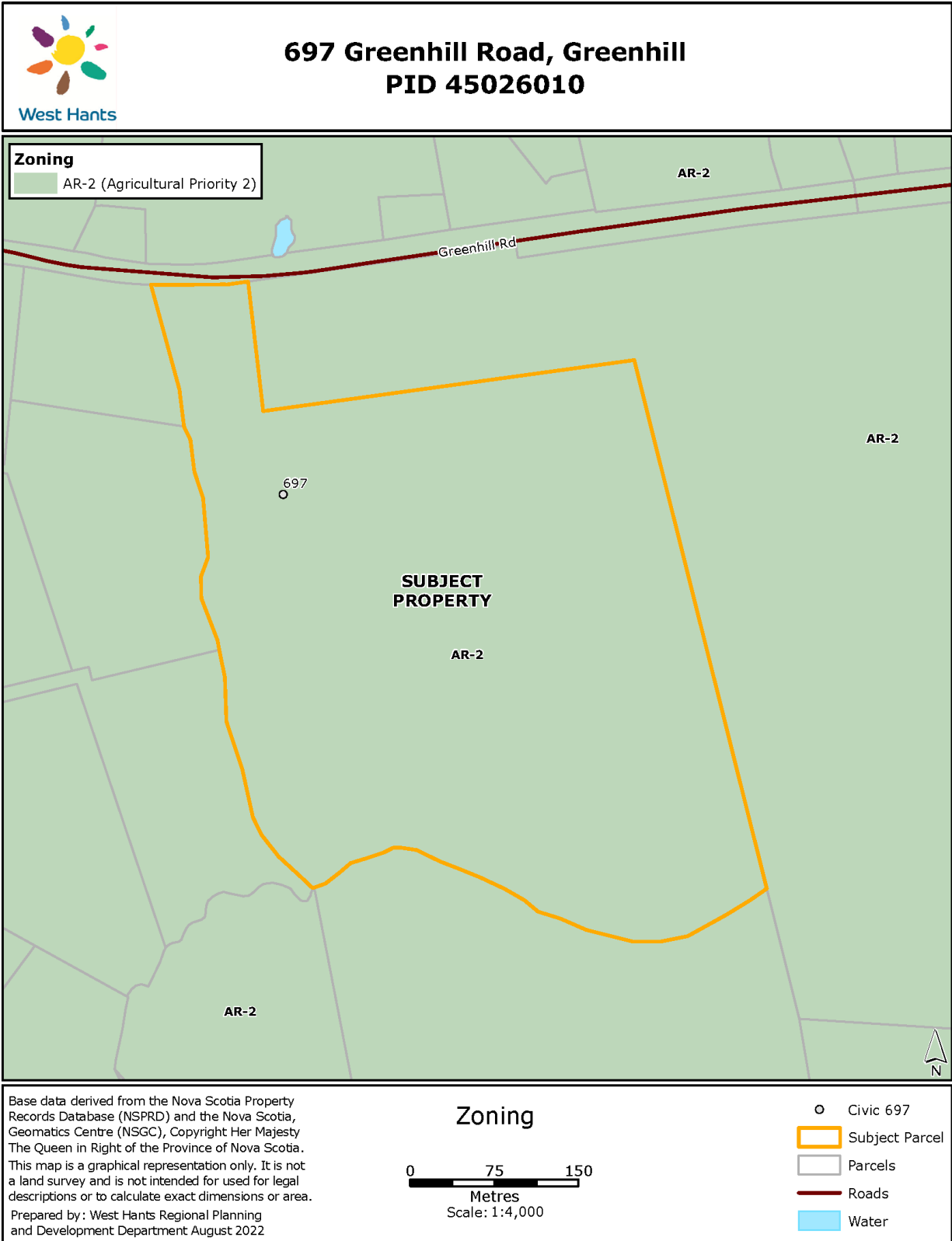
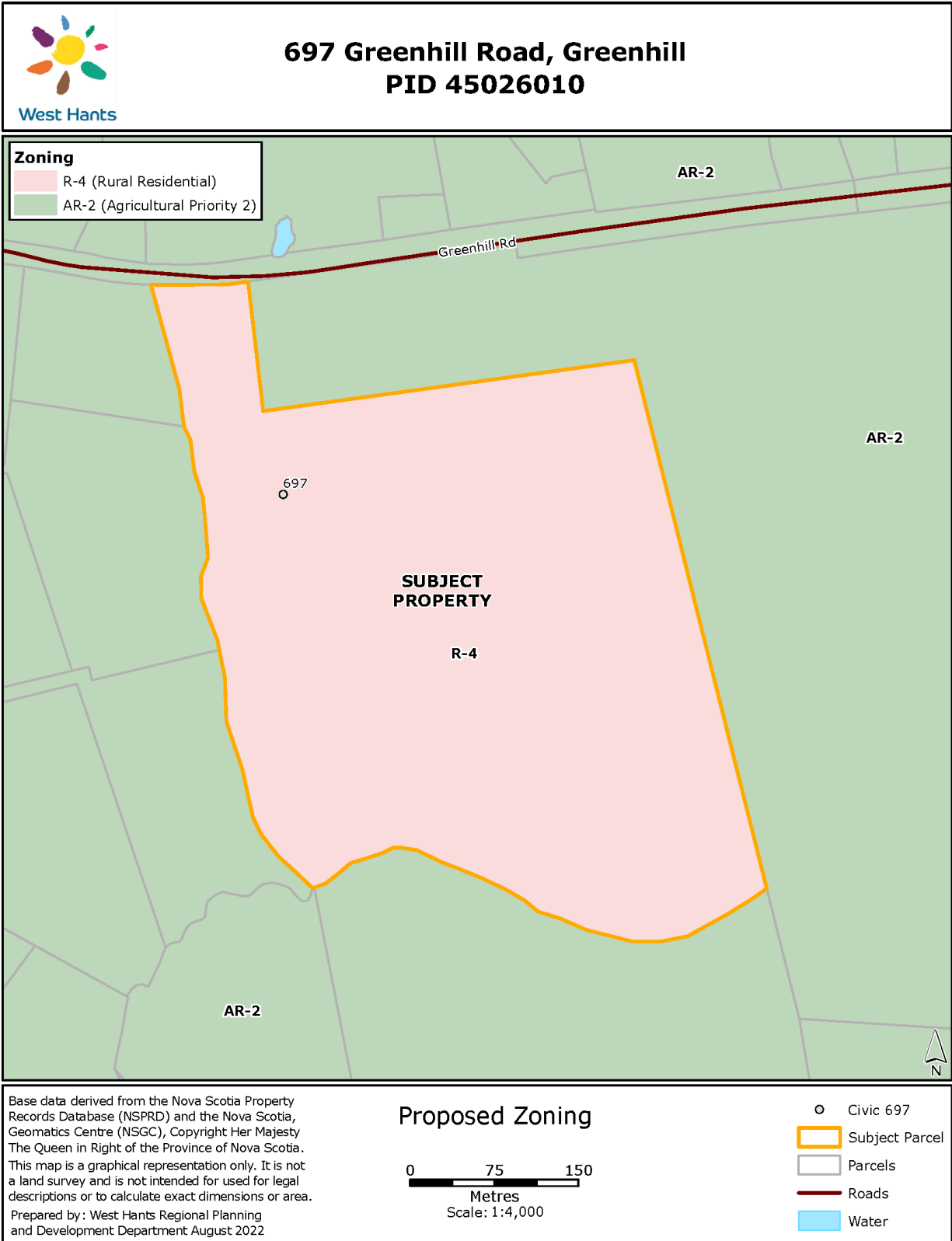


Figure 3 – Proposed Zoning Map Extract



Attachment A – Policy Summary for Amendment to Land Use By-law

<p>Policy 8.9.3 <i>It shall be the policy of Council to consider rezoning land zoned AR-2 to Rural Residential (R-4) subject to the following:</i></p>	
<p>(a) <i>the development site has been determined to have little or no agricultural capability in accordance with Policy 8.6.1;</i></p>	<p>The agrologist report listed as Attachment C concludes that the subject lot is not well suited for future agricultural development.</p>
<p>(b) <i>the proposed development will not compromise or adversely affect the operation or integrity of existing agricultural operations;</i></p>	<p>The subject lot is large enough to buffer the development from abutting lots.</p>
<p>(c) <i>the predominant agricultural character of the area will not be adversely affected and the proposed development is compatible with the area in terms of such matters as density, scale and traffic generation;</i></p>	<p>The applicant intends to retain the character of the area by having low-density residential uses on large lot sizes.</p>
<p>(d) <i>adequate separation distances and buffering between agricultural and non-agricultural uses can be provided;</i></p>	<p>The subject lot has sufficient space to maintain setbacks from surrounding properties.</p>
<p>(e) <i>any other matter which may be addressed in a Land Use By-law; and</i></p>	<p>All matters are addressed.</p>
<p>(f) <i>Policy 16.3.1.</i></p>	<p>Refer to Policy 16.3.1 summary.</p>
<p>Policy 8.6.1 <i>It shall be the policy of Council to consider certain non-farm development, pursuant to the relevant specific policies of this Part, on land within the Agricultural designation that has been determined to have little or no agricultural capability. A determination of agricultural capability shall be based on the following:</i></p>	
<p>(a) <i>90 percent or more of the development site is an existing or abandoned resource extraction site such as a sand pit, gravel pit or quarry for which a permit for extraction has been issued by the Province of Nova Scotia. The resource extraction must have been existing or abandoned prior to the effective date of this Strategy; or</i></p>	<p>N/A</p>
<p>(b) <i>if not a resource extraction site, a study has been prepared by a professional agrologist, at the expense of the applicant, which concludes that the proposed development will not adversely affect the viability of surrounding agricultural operations and:</i></p>	
<p>(i) <i>90 percent or more of the development site has soils defined as Class 4 or lower capability for agriculture; or</i></p>	<p>N/A</p>

<p><i>(ii) the soils have a capability for agriculture rating better than Class 4, but 90 percent or more of the development site exhibits severe limitations for agricultural use because of slope, stoniness, salinity, wetness, permeability, depth of soils, size of parcel or proximity to non-farm buildings;</i></p>	<p>The land is rated as Canada Land Inventory (CLI) Class 3 but has constraints which limit the use of the land for agriculture. The amount of effort to convert this property into highly productive land is not feasible, and extensive maintenance on the land would likely be required to maintain agricultural production.</p>
<p><i>(c) the study shall:</i></p>	
<p><i>(i) be prepared by a registered full member of the Nova Scotia Institute of Agrologists;</i></p>	<p>A report was received from Jonathan Wort, who is a Professional Agrologist recognized by the Nova Scotia Institute of Agrologists.</p>
<p><i>(ii) require a site inspection by the agrologist;</i></p>	<p>A site visit was conducted on July 6th, 2022 by Johnathan Wort and Caitlin McCavour.</p>
<p><i>(iii) specify the method used, consistent with the C.L.I. classification methodology, to determine soil capability for agriculture;</i></p>	<p>The Canadian Land Classification system was designed for land that has been previously cleared and does not include forested sites. The agrologist's report did not reclassify the land, but instead used OMAFRA protocol to determine whether the subject lot is suitable for agriculture.</p>
<p><i>(iv) identify any major site features or characteristics which influence or determine soil capability including, but not limited to, slope, soil texture, stoniness, wetness, salinity, permeability, and depth of soils;</i></p>	<p>Refer to Interpretation sections in Attachment C.</p>
<p><i>(v) include a site plan illustrating the area studied and any relevant site features;</i></p>	<p>Included within Attachment C.</p>
<p><i>(vi) identify reasons why the use would be compatible with, or not adversely affect, area farms. Reference should be made to the following where applicable: site and locational constraints; infilling between existing non-farm development; logical extension of existing non-farm development; special use with special locational requirements; current pattern of development; parcel size and shape; surrounding land uses; context within which the parcel fits into the farming area; viability of the parcel and remnant for farming; and existing, past and future use of the parcel and remnant;</i></p>	<p>The proposed residential use is compatible with the surrounding agricultural uses as each lot as part of the subdivision process would have sufficient setback distances and large lot sizes, indicative of agricultural areas.</p>

<i>(vii) indicate the implications of letting the parcel go out of agricultural production; and</i>	There is no evidence to suggest the subject lot has been in agricultural production over the last 50 years.
<i>(viii) indicate the implications of fragmenting the land.</i>	The intent of the application is to maintain large lot sizes. Maintaining the total lot size of 52 acres is not useful as it is not feasible to support agricultural production.

Policy 16.3.1	
<i>In considering development agreements and amendments to the Town of Windsor Land Use By-law, in addition to the criteria set out in various policies of this Strategy, Council shall consider:</i>	
<i>(a) whether the proposal is considered premature or inappropriate in terms of:</i>	
<i>(i) the adequacy of sewer and water services;</i>	The Public Works Department confirmed that there are no municipal services on the subject lot.
<i>(ii) the adequacy of school facilities;</i>	N/A
<i>(iii) the adequacy of fire protection;</i>	The local Fire Chief and Manager of Building and Fire Inspection Services have stated that there is adequate fire protection for the proposed use.
<i>(iv) the adequacy of road networks adjacent to, or leading to the development; and</i>	A Nova Scotia Department of Public Works Engineering Aide confirmed that the existing access would be sufficient for a maximum of three (3) lots and that developing a private road on the lot would not be permitted.
<i>(v) the financial capacity of the Town to absorb any costs relating to the development.</i>	There are no anticipated costs to the Municipality regarding this development.
<i>(b) whether the development is serviced, or capable of being serviced, by a potable water supply and either central sewer or an approved on-site sewage disposal system;</i>	As there have been concerns regarding the supply of potable water access in the area, a hydrogeologist report regarding the potential effects of the development on the existing water table should be pursued.
<i>(c) the suitability with any aspect relative to the movement of auto, rail and pedestrian traffic;</i>	A Nova Scotia Department of Public Works District Manager commented that they do not have any concerns regarding movement relative to the subject lot.
<i>(d) the adequacy of the dimensions and shape of the lot for the intended use;</i>	The Development Officer had no concerns regarding the adequacy of the of the shape

	or size of the subject lot for the intended use.
<i>(e) the pattern of development which the proposal might create;</i>	As the intent of the application is to permit residential lots with large lot size, the type of development is similar to surrounding uses. The Development Officer had no concerns about the pattern of the development.
<i>(f) the suitability of the area in terms of steepness of grade, soil and geological conditions, location of water courses, marshes or bogs and susceptibility of flooding;</i>	See Attachment C.
<i>(g) whether the proposal meets the requirements of the appropriate provincial or federal agencies as well as whether it conforms to all other relevant municipal by-laws and regulations; and</i>	All Municipal, Provincial, and Federal regulations will have to be met.
<i>(h) any other matter required by relevant policies of this Strategy.</i>	All relevant matters have been addressed in this report.

Attachment B - Public Information Meeting Notes
September 8th – September 23rd, 2022
File 22-19
697 Greenhill Road, Greenhill PID 45026010

Meeting date and time	A virtual Public Information Meeting was held on September 8 th , 2022 beginning at 7:10 p.m. The meeting was live broadcast on the Municipal Facebook page.
Attending	<p>In attendance:</p> <p>Three (1) Councillor:</p> <ul style="list-style-type: none"> • Councillor Ivey (Chair) <p>Four (4) members of staff:</p> <ul style="list-style-type: none"> • Planner Dunphy • Planner Poirier • Director LeMay • Meeting Secretary Lake <p>The following members of the public requested an invitation to the PIM via Zoom:</p> <ul style="list-style-type: none"> • Candace Hillier • Leslie and Jason Bower • Richard Bullock
<p>Applicant Doug Faulkner</p> <p>Property 697 Greenhill Road, Greenhill PID 45026010</p>	Planner Dunphy outlined the amendment application to rezone a 52 acre agriculturally zoned property to permit residential subdivision and construction of a private road.
Comments	<p>Comments from the public could be submitted to Planner Dunphy by mail, e-mail and telephone between September 8th – 23rd, 2022.</p> <p>2 phone calls were received, with an email follow up. The questions and comments from the public are summarized below. The email response is attached.</p> <p>Two phone calls were received during the PIM comment period. Staff responses are included in purple text:</p> <ul style="list-style-type: none"> • Richard Bullock was concerned about the drilling of additional wells on the subject lot, citing issues with water extraction from a dug well.

	<p>Alex confirmed that he would be reviewing access to water as part of the criteria for the rezoning.</p> <ul style="list-style-type: none">• Elizabeth Caverly had concerns regarding the digging of additional wells on the subject lot and potential for the intensity of residential development on the lot. Alex confirmed that potable water access would be reviewed as part of the rezoning process. Alex also responded that the applicant had intended to subdivide the subject lot into approximately 3-5 lots, with each lot being multiple acres in size.
Adjournment	The meeting was adjourned at 7:15 p.m.

Public Email Responses Submitted for the Application PIM

September 22nd, 2022

From: Elizabeth Caverly

To: Alex Dunphy

Good morning Mr. Dunphy –

Further to our conversation on Friday, September 16th, I understand that another meeting is scheduled to discuss the above-noted matter. As indicated to you during our discussion, my main concern involves any impact analysis study which, I assume, must have been conducted regarding the local water table and how a new development will impinge on an already stretched resource. As you know, many neighbouring homes have experienced severe water shortages this season and these new plans will only exacerbate the situation.

I wish to attend the next meeting and to be afforded an opportunity to raise my concerns and to have a better understanding of the scope of the anticipated project. Please provide me with the necessary zoom link at your earliest convenience.

Thank you

Elizabeth

M. Elizabeth Caverly

Director – Directrice

Atlantic Region / région atlantique

Courts Administration Service

Service administratif des tribunaux judiciaires

Attachment C – Agrologist Report